

**NOTICE OF REMOVAL BY  
DEFENDANTS NIAGEL ONEIL MCNAIR  
and P.A.M. TRANSPORT, INC.**

6. This Court has subject matter jurisdiction over this matter pursuant to 28, U.S.C. §1332 – Diversity Jurisdiction.

7. Plaintiff alleges he is a resident of Gwinnett County, Georgia.

8. Defendant McNair is a resident of the State of Mississippi, and Plaintiff claims Defendant McNair is a Mississippi resident in his Complaint.

9. Defendant P.A.M. Transport, Inc. is incorporated in the State of Arkansas and has its principal place of business in that state. Plaintiff claims Defendant P.A.M. Transport is a foreign entity in his Complaint.

10. No defendant is a citizen of South Carolina for purposes of 28 U.S.C. §1332.

11. This court has Diversity Jurisdiction under 28 U.S.C. §1332 because this civil action is between citizens of different states and the matter in controversy exceeds the sum of Seventy-five Thousand and no/100 (\$75,000.00) Dollars.

12. Because the Plaintiff's claims are within this court's original jurisdiction under 28 U.S.C. §1332 and because the Defendants are not citizens of South Carolina, this case is removable to this court pursuant to 28 U.S.C. §1441(b).

13. Therefore, complete diversity exists because this action is between citizens of different states and the amount in controversy exceeds Seventy-five Thousand and no/100 (\$75,000.00) Dollars; thus, this court has jurisdiction of the above-entitled action pursuant to 28 U.S.C. §1332, and this action may be removed to this court pursuant to 28 U.S.C. §1441.

14. Because Defendant P.A.M. Transport, Inc. was served on September 20, 2021, this Notice of Removal is filed within thirty (30) days of service of the initial pleading pursuant to 28 U.S.C. §1146(b).

15. Copies of all state court pleadings served on Defendants in the above-entitled action are attached as Exhibit A.

16. The Clerk of Court for Common Pleas in Cherokee County, South Carolina, has been provided with a copy of this Notice of Removal. Additionally, Defendants have served a copy of this Notice on counsel for Plaintiff.

17. Removal to this District and Division is proper under 28 U.S.C. §121(4) because this District and Division embrace the Cherokee County Court of Common Pleas, the forum in which the removed action is pending.

18. Defendants submit this Notice of Removal without waiving any defenses to the claims asserted by Plaintiff or conceding that Plaintiff has pled claims upon which relief can be granted. Defendants specifically reserve the right to assert, if applicable, any and all defenses enumerated under Rule 12 of the Federal Rules of Civil Procedure or any other affirmative defenses, including those enumerated under Rule 8(c), Federal Rules of Civil Procedure, upon the filing of its responsive pleadings within the time allotted under the Federal Rules Civil Procedure.

19. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

20. The Defendants have complied with the requirements of Rule 83.IV.02 of the Local Rules of United States District Court for the District of South Carolina.

21. Finally, if any questions arise regarding the propriety of the removal of this action, Defendants respectfully request the opportunity to present a memorandum and oral argument in support of the position that this case is removable and conduct discovery related to the facts that support removal.

WHEREFORE, Defendants respectfully request that this case proceed as an action

properly removed to the United States District Court for the District of South Carolina.

Respectfully Submitted,

*s/ Daniel R. Settana, Jr.*

Daniel R. Settana, Jr.

The McKay Firm, P.A.

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***Attorney for Defendants***

Columbia, South Carolina

October 11, 2021